

REMARKS / ARGUMENTS

This Request for Continued Examination is being filed subsequent to the Examiner's office action mailed October 6, 2004. The Examiner made the action final.

The arguments set out below, are made in respect of the points made by the Examiner in her letter and in consequence to the changes to the claims discussed more fully below.

The Examiner is thanked for the courtesy of the interview after final conducted by telephone. During that conversation, it became apparent that the Examiner and the applicant appear to have a quite different interpretation of certain language set out in claim 1.

As previously considered by the Examiner, claim 1 on file prior to this response specified that the body portion had an axis and that the cutting edge extended radially outwardly from the axis. It appears to be the Examiner's position that the Examiner's principal reference Day, 5,947,735, met that claim language .

From applicant's point of view, the Day reference does not in fact meet the language of that claim. Day has a cutting edge which extends generally longitudinally, not radially, of the implant of Day. It is respectfully pointed out that the substance of the Day disclosure, is directed to a system of surface treating a dental implant. In order to minimize the dulling effect on the cutting edge of Day during the surface treatment, Day teaches use of three shield-like members which are assembled to the surface of the implant before it is impacted by the surface treatment materials as shown in figure 2. From reference to figure 2, it is clear that the shields extend generally axially over the outer surface. As shown in figure 2, adjacent the numeral 12, the lowermost surface of the implant is not protected by any of the three shields in the area between the shields and thus the surface roughening material would clearly ruin any cutting edge if there were a cutting edge located in that area. It is respectfully submitted that the entire thrust of the Day disclosure is that it is a self-tapping device, not a self-drilling device. As shown in figure 2, Day has a generally curved lower surface opposite the numeral 12

which would be entirely inappropriate for a self-drilling implant, and any cutting edge, if present there, would be rendered ineffective by the surface roughening process.

Based on the discussions with the Examiner, it is believed that the Examiner did not interpret the words referred to above on the basis that the cutting edge commenced at the longitudinal axis. Accordingly, in the claim amended as part of this Request for Continued Examination, applicant has provided additional language specifying that the cutting edge commences at the axis.

Because of the reference to the cutting edge of the tip portion and the reference elsewhere, the claim has also been amended to make clear that the crest of the thread comprises a cutting edge so that the product is self-tapping, as well as the cutting edge at the tip portion of the body which provides the self-drilling aspect.

The Examiner has made certain rejections under 35 U.S.C. 103 in view of the combination of Day with Beaty, U.S. 5,727,943. The Examiner has taken the position that it would be obvious to have the crest line of Day, as in Beaty, in order to provide friction reduction structure in view of Beaty. It is respectfully submitted that friction reduction is not to be achieved with Day which in fact teaches roughening of the surface. Similarly, at least as illustrated in Day, there is no tapering whatsoever of the thread adjacent the tip portion. To the extent that one can scale drawings, in figure 1, it appears that the crest of the thread, at least as shown in figure 1 on the left-hand side, is a uniform distance at all times from the axis of the Day implant. Thus, there is no tapering of thread crest as suggested in the claims of the present application for the purpose of controlling bone compression in the surgical site. Beaty, on the other hand, deals with friction reduction by having the defined edges spiral inwardly so that the cutting edge immediately next to the cutting edge is at a lesser radius from the axis so that only the cutting edge at the relieved area 22 touches the bone. This is explained in connection with figure 4. The relieved area 22 has a series of threads adjacent thereto. Each of the thread crests spirals inwardly so that as the Beaty device turns, the only contact between the bone is where the cutting edge 32 contacts the bone, with no contact occurring in the portion of the threads illustrated by the number 52. The cutting edge 32 extends axially of the Beaty implant.

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It is essential in the Beaty device, as explained, that there first be a bore hole illustrated by the numeral 19 in figure 4. This makes it quite clear that what Beaty is dealing with, is a self-tapping, but not self-boring, implant.

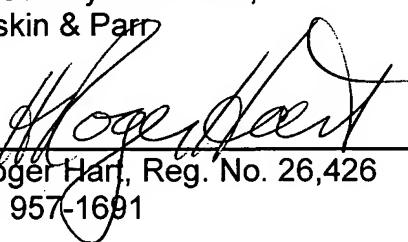
In view of all of the foregoing, it is believed that no combination accepting the teachings of Beaty or Day would lead to a structure which would be self-boring, let alone one that is self-boring while managing the compression of the bone as explained in the present application

It is believed that with this explanation, together with the request that the Examiner give appropriate weight to the language as in fact specified in the claim, neither Beaty nor Day, nor any combination thereof, makes obvious or anticipates the presently claimed invention.

In the enclosed Petition for Extension of Time, we have paid the necessary fees for an extension of time of one month to respond to the Examiner's action.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,
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